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April 26, 1995

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Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

RE: Comments of U.S. Long Distance, Inc. in CC Docket No. 92-77

Dear Ms. Searcy:

Enclosed herein please find an original and ten (10) copies of the Reply Comments of U.S. Long Distance, Inc. in the above referenced proceeding, submitted herewith for filing in accordance with the schedule set forth in the Commission's Public Notice in response to an industry coalition ex-parte filing, DA-95 473, released March 13, 1995.

Please stamp the enclosed copy of this letter for verification of your receipt and return to the undersigned in the postage paid envelope provided. Please contact the undersigned with any relative questions or requests. Your courtesies are greatly appreciated.

Sincerely,

Kenneth F. Melley, Jr.
Vice President of Regulatory Affairs

KFM/cgl
enclosure

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20054

In the Matter of	)	
	)	
Billed Party Preference	)	CC Docket No. 92-77
for 0+ InterLATA Calls	)	
	)	

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REPLY COMMENTS OF
U.S. LONG DISTANCE, INC.

U.S. Long Distance, Inc. ("USLD") hereby submits its reply comments in response to those comments filed April 12, 1995 by various industry representatives regarding the ex-parte proposal filed on March 7, 1995 in this Docket by the Competitive Telecommunications Association, et. al. (the "proposal"), which addresses the possibility of imposing certain rate thresholds on interstate operator assisted calls from aggregator locations.

USLD continues to support the proposal as an alternative to the adoption of a billed party preference ("BPP") system. Comments filed on April 12, 1995 fail to demonstrate any public policy support for failure to adopt the rate threshold set forth in the proposal along with the implementation of the safeguards described therein. On the contrary, commentors in support of the proposal outnumber those against [1], and include members of the Independent Payphone Provider ("IPP") industry and the alternate

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1 See Comments of Operator Service Company, Comments of the Intellicall Companies, Comments of Bell Atlantic, Supplemental Comments of the Competitive Telecommunications Association, Comments of Frontier Communications International, Inc., Comments of Teltrust, Comments of APCC, Comments of U.S. Long Distance, Inc.

operator service ("AOS") industry, whose revenues will be most directly affected. Furthermore, the original petitioner for a system of BPP, Bell Atlantic, recognizes that the rate threshold proposal "can achieve the primary goal of BPP at only a tiny fraction of the cost." [2]

Certain commentors cling to the outdated notion that BPP should continue to be considered by the FCC as an alternative to the proposal .[3] Coincidentally, although MCI claims that the Joint Petitioners of the proposal have motives that are "self serving," [4] it is only those two entities who stand to realize a revenue windfall through the adoption of a BPP system who continue to advocate it. MCI, who would instantaneously receive an increase in marketshare on the order approaching $1 billion by applying its direct dial market share to the annual OSP industry revenue, appears to be the proponent of a self-serving cause. As previously noted, the Joint Petitioners are advocating a public policy decision that actually negatively affects their revenue. Sprint, who could realize a $500 million windfall in "0+" revenue in addition to earning the guaranteed rate of return on the exogenous investment of $1.7 billion through its LEC affiliates that has been demonstrated as the cost of implementing BPP, should be wholly ignored with their bald-faced attempt to shore up the BPP proposal with false statements regarding the OSP industry.

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[2] Comment of Bell Atlantic at 1.

[3] See Comments of MCI and Comments of Sprint.

[4] Comments of MCI at 2.

For example, Sprint states in its comments that the proposal "fails to treat even the systems of the present environment."[5] The proposal clearly addresses operator service rates in the context of consumer thresholds and would implement an enforcement mechanism that RBOC's have advocated as workable. What, then, does Sprint perceive to be at issue underlying the BPP proposal? Have consumers demanded that the FCC adopt BPP in order that Sprint end users can access their carrier on a 0+ basis from all telephones? The record fails to support this absurd concept. Clearly, consumers have identified rates, not carrier selection, as the issue in this proceeding.

Sprint claims that failure to penetrate the AOS industry in any magnitude stems from an "...advantage that AT&T inherited from its pre-divestiture monopoly."[6] USLD suggests, contrarily that in the past twelve years since divestiture, Sprint has had opportunity to market each one of these customers they claim to be slaves to AT&T's monopoly advantage, as have the reported "thousands" of other OSP's in the market, and have had the opportunity to introduce its own products or to successfully show regulatory agencies conclusive evidence of this anti-competitive behavior. This would require investment on the part of Sprint, however, who now believe they can achieve the same goal without investing a penny through the adoption of BPP.

BPP, in and of itself, should be rejected as a proposal worthy of further debate, as supported by its author, Bell Atlantic, in these filings. The rate threshold proposal on its

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[5] Comments of Sprint at 4.

[6] Id. at 6.

own should be considered as an effective means of addressing consumer issues in balance with operator service provider's rights.

Certain commentors hold out that non-compliance with TOCSIA regulations indicate somehow that the proposal would be similarly ignored. MCI, for example, definitively states that "consumers still cannot access their carrier of choice because access code dialing is blocked."[7] Hopefully, they have communicated this purported "fact" to their own marketing personnel in order that their massive advertising campaign for "1-800-COLLECT," complete with high dollar television personalities, can be abated.

Joint petitioners to the proposal include most of the Regional Bell Operating Companies, who will be called upon to play a role in the enforcement of the rate threshold. Their participation implies what USLD believes to be the case, that this proposal will be enforceable with relative ease. Sprint naively states that "LECs may not bill for all calls of all OSPs."[8] USLD herein submits that, as an OSP, no other practical means of billing casual "O+" calls billed either to a LEC telephone number or a LEC calling card, has ever materialized in the eight years it has provided operator services, including in those jurisdictions which currently impose rate caps on such calls.

Some commentors opposed to the proposal have indicated their belief that imposing a cap or a maximum rate is inappropriate rulemaking for the FCC.[9] USLD, however, has interpreted the proposal quite differently.

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7 Comments of MCI at 2.

8 Comments of Sprint at 8.

9 See Comments of MCI, Comments of Sprint, Comments of Capital Network System, Inc., Comments of U.S. OSIRIS.

Considering recent Supreme Court ruling which determined that non-dominant carriers remain subject to the conditions imposed upon other classifications of telecommunications providers under the Telecommunications Act of 1934, as amended, and that 47 U.S.C. §§ 201 (b); 205 (a) gives the FCC the authority to ensure that rates charged by common carriers are just and reasonable, it follows that, contrary to the position advocated by the commentors,[10] that the FCC does indeed have the authority to reject certain rates which are unsubstantiated by related costs or any other mitigating factor. Establishment of a threshold, above which a provider of operator services could indeed charge as long as it were able to show the related costs, does not constitute "rate fixing."[11] In fact, this methodology has been successfully implemented in several states. Furthermore, USLD is unaware of any OSP having attempted to justify higher rates in any of those states which impose similar rate thresholds.

Conclusion

USLD once again states its support for the proposal set forth by CompTel, et.al. on March 7, 1995. On review of subsequent comments, USLD finds no meritous argument to deny such petition, only those which would serve to enrich its authors instantaneously

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10 Capital Network at 2 - 3.

11 See Sprint at 9.

at the expense of $2 billion to the rate payers, and those which inaccurately characterize the threshold as an immovable limit. USLD believes that implementation of the proposal is in the interest of consumers and the industry as a whole.

Respectfully,

Kenneth F. Melley, Jr.
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9311 San Pedro Ave., Suite 300
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April 27, 1995